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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,712

04/02/2004

Dennis Piper

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EXAMINER

WELCH, GARY L

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

08/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DENNIS PIPER, WILLIAM CLEVELAND
and JOHN K. LAMPE

Application No. 10/816,712
Technology Center 3700

Mailed: August 14, 2008

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on February 7, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer mailed January 5, 2007 under the heading "Grounds of rejection" is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading "New Grounds of Rejection" in the Examiner's Answer and must include the approval of the TC Director or his/her designee. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8th ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds a new Ground of Rejection that has not been provided the required heading "New Grounds of Rejection" and does not include the approval of the TC Director or his/her designee. Specifically, the Examiner's Answer sets forth a new rejection of claims 2-4, 10 and 11 as being rejected under 35 U.S.C. 103(a) as being unpatentable over Mattes '054 in view of Gwon.

Accordingly, it is **ORDERED** that the application be returned to the Examiner:

Application No. 10/816,712

- 1) to vacate the Examiner's Answer mailed January 5, 2007;
- 2) to generate a new Examiner's Answer setting forth the correct Grounds of rejection and to correct other sections of the Answer as may be required;
- 3) and to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection);

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/SJB

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